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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,166	09/24/2007	Joseph M. Onderko	040158 343P2	4066
33805 7590 08/27/2008 WEGMAN, HESSLER & VANDERBURG 6055 ROCKSIDE WOODS BOULEVARD SUITE 200 CLEVELAND, OH 44131			EXAMINER FABIAN-KOVACS, ARPAD	
			ART UNIT 3671	PAPER NUMBER
			MAIL DATE 08/27/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,166	<b>Applicant(s)</b> ONDERKO ET AL.	
	<b>Examiner</b> Árpád Fábíán-Kovács	<b>Art Unit</b> 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/2/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Harvey et al (2004/0201286).

cl. 1: multi-position ignition switch having OFF & RUN positions (having ON & OFF position ignition switch 28, fig 2); PTO switch (30 having ENGAGE / DISENGAGED positions, fig 3); reverse switch (26 having FORWARD / REVERSE positions, fig 3); override switch (14 having ACTIVATION / NON-ACTIVATION, fig 3); control circuit that prevents or allows PTO operation when the override is in NON-ACTIVATION (OFF) or ACTIVATION (ON) respectively; the override condition is released when the override switch is in the NON-ACTIVATION (OFF) position or reset when ignition switch off / reset at start (background of the invention; see ¶4); the PTO switch is engaged/disengaged while the override condition is maintained the vehicle moves between reverse & forward directions (¶18);

cl. 4-5: electric PTO clutch (¶8); means for disengaging (for example, safety switch, ¶8-10);

cl. 6: magneto (75).

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As applied to claim(s) 7-9, in view of the structure disclosed/taught by Harvey, the **method** of operating/using the device is inherent since it is the normal and logical manner in which the device is used.

Claims 1, 4-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Walters et al (2004/0124026).

For brevity the above details won't be repeated, Walters also discloses an override/bypass switch to enable operation of the PTO in reverse.

Claims 1, 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Baggett et al (6437458).

For brevity the above details won't be repeated, Baggett also discloses an override/bypass switch (at position #2) to enable operation of the PTO in reverse (see ¶16, in Detailed Description).

#### *Allowable Subject Matter*

Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián-Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Árpád Fábián-Kovács/  
Primary Examiner, Art Unit 3671